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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/262,658

03/04/1999

JOSHUA A. ROSENTHOL

UV-81

9736

75563

7590

05/15/2009

ROPES & GRAY LLP

PATENT DOCKETING 39/361

1211 AVENUE OF THE AMERICAS

NEW YORK, NY 10036-8704

EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2421

MAIL DATE

DELIVERY MODE

05/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/262,658	Applicant(s) ROSENTHOL ET AL.	
	Examiner Jason P. Salce	Art Unit 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-113 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-113 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/13/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/13/2005, with respect to the rejection(s) of claim(s) 113 under 102(b) and 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Graves in view of Roth.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9-13, 15-16, 18-36, 38-43, 45-51, 53-57, 59-60, 62-72, 74-84, 86-90, 92-93, 95-98, 100-102, 104-109 and 111-112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graves et al. (U.S. Patent No. 5,410,344) in view of Roth (U.S. Patent No. 6,583,797).

Referring to claim 1, Graves discloses an interactive television program guide system in which an interactive television program guide is at least partially implemented on user equipment of a user (**see Figures 2 and 5**).

Graves also discloses means for displaying a list of programming themes (**see Figure 5**).

Graves also discloses means for providing an option with the interactive television program guide for the user to select a programming theme from the list of programming themes (**see Figure 5 for allowing a user to select one of the themes**) and a level of interest in that selected programming theme (**see Figure 5 for selecting a level of interest in the form of a score between 1 and 10**).

Graves fails to teach means for modifying the list of programming themes based on the selected theme and level of interest.

Roth discloses displaying a list of programming themes and selecting rankings for each programming theme (**see Figure 11-12**). Roth further discloses means for modifying the list of programming themes based on the selected theme and level of interest (**see Figures 11-12 and Column 15, Line 60 through Column 17, Line 32**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the list of ranked programming themes, as taught by Graves, using the programming theme display ranking process, as taught by Roth, for the purpose of providing the improvement of instructing the menu management mechanism to maintain a certain menu order within a given menu (**see Column 2, Lines 6-10 of Roth**).

Referring to claim 2, Graves discloses that the means for providing the option for the user to select a programming theme and a level of interest in that programming theme comprises providing an option for the user to designate a high level of interest in the selected programming theme (**see Figure 5 for an option to select an interest**

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level of 8, 9 or 10 which represents a high level of interest of the programming theme).

Referring to claim 3, Roth discloses that the means for modifying the list of programming themes comprises means for displaying the list of programming themes comprises means for displaying the list of programming themes with the selected programming theme at the top of the list **(see Figures 11-12 and Column 16, Lines 9-36).**

Referring to claim 4, Roth discloses that the means for modifying the list of programming themes comprises means for displaying the list of programming themes comprises means for shifting the remaining programming themes to a lower position on the list **(see the rejection of claim 3 where selecting an item from the bottom of the list to appear at the top of the list inherently places the remaining items at lower positions in the list).**

Referring to claim 5, Graves discloses means for providing an option to select a programming theme from the list as a search criterion for searching program listings data **(see Column 9, Lines 35-42 for the selected programming themes that are ranked by the viewer are used to search for a subset of program listings data to display to the viewer).**

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Referring to claim 6, Graves discloses means for searching the program listings data for programming satisfying the search criterion in a database maintained by the interactive television program guide (**see Column 9, Lines 35-42 for the selected programming themes that are ranked by the viewer are used to search for a subset of program listings data to display to the viewer**).

Referring to claim 7, Graves discloses that the interactive television program guide maintains the database on the user equipment (**see the rejection of claim 6**).

Referring to claim 9, Graves discloses means for displaying a list of programming satisfying the search criterion (**see Column 9, Lines 35-42 for the selected programming themes that are ranked by the viewer are used to search for a subset of program listings data to display to the viewer**).

Referring to claim 10, Graves discloses that the means for providing the option for the user to select a programming theme and a level of interest in that programming theme comprises providing an option to designate a low level of interest in the selected programming theme (**see Figure 5 for an option to select an interest level of 1, 2 or 3 which represents a low level of interest of the programming theme**).

Referring to claim 11, Roth discloses that the means for modifying the list of programming themes comprises means for displaying the list of programming themes

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with the selected programming theme at the bottom of the list (**see the rejection of claim 3 where selecting an item from the bottom of the list to appear at the top of the list inherently places the remaining items at lower positions in the list**).

Referring to claim 12, Graves discloses that the means for modifying the list of programming themes comprises means for deleting the selected programming theme from the list of programming themes (**see Column 6, Lines 46-49 for when themes are ranked lower than the ten items to be displayed from the preferred viewing file, the lowest ranked themes are removed from the list**).

Referring to claim 13, Roth discloses that the means for providing an option for the user to select a programming theme and a level of interest in that programming theme comprises means for numerically designating a position for the selected programming theme in the list of programming themes (**see the rejection of claim 3**).

Referring to claim 15, Graves discloses means for searching program listings data stored in a database maintained by the interactive television program guide while using the selected programming theme as a search criterion (**see Column 9, Lines 35-42 for the selected programming themes that are ranked by the viewer are used to search for a subset of program listings data to display to the viewer**).

Referring to claim 16, Graves discloses that the interactive television program guide maintains the database on the user equipment (**see Figure 2**).

Referring to claim 18, see the rejection of claim 9.

Referring to claim 19, Graves discloses means for storing the selected programming theme and level of interest (**see the personal preference file 32a in Figure 2 and Column 6, Lines 5-16 for storing the selected programming theme and level of interest**).

Referring to claim 20, Graves discloses that the user equipment is user personal computer equipment (**see Figure 2**).

Referring to claim 21, Graves discloses that the user equipment is user television equipment (**see Figure 2**).

Referring to claim 22, Graves discloses a server located at a television distribution facility on which at least a portion of the interactive television program guide is implemented (**see content coder 12a in server 12 and system headend 14 and Column 4, Lines 6-21**).

Referring to claim 23, see the rejection of claims 1 and 3.

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Referring to claim 24, see the rejection of claim 4.

Referring to claim 25, see the rejection of claims 5-6.

Referring to claims 26-29, see the rejection of claims 9 and 19-21, respectively.

Referring to claim 30, see the rejection of claims 1, 4 and 11.

Referring to claim 31, see the rejection of claim 12.

Referring to claim 32, Graves discloses providing an option for restoring the deleted programming theme to the theme list (**see Column 6, Lines 39-43 for restoring a program to the preferred viewing file 30a based on the higher ranking of the program**).

Referring to claim 33, Graves discloses storing the selected programming theme in a non-volatile memory device (**see Figure 2 for storing the preferred viewing file in memory device 30a**).

Referring to claims 34-35, see the rejection of claims 20-21, respectively.

Referring to claims 36, 38 and 39-42, see the rejection of claims 1, 6, 9, 33 and 20-21, respectively.

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Referring to claim 43, see the rejection of claim 1 and further note that the selected programming themes and level of interest are stored in a preference profile (**see stored profile 30a in Figure 2 and Column 6, Lines 12-16**).

Referring to claims 45-51, see the rejection of claims 1-7, respectively.

Referring to claims 53-57, see the rejection of claims 9-13, respectively.

Referring to claims 59-60 and 62-66, see the rejection of claims 15-16 and 18-22, respectively.

Referring to claim 67, see the rejection of claim 1 and further note that when a viewer selects preferred themes in Figure 5, the list is updated according to Column 6, Lines 5-52 thereby creating a second list.

Referring to claim 68, see the rejection of claim 67.

Referring to claims 69-72 and 74-77, see the rejection of claims 2, 5-7, 9 and 19-21, respectively.

Referring to claims 78-84, 86-90, 92-93 and 95-96, see the rejection of claims 1-7, 9-13, 15-16 and 18-19, respectively.

Referring to claims 97-98 and 100-101, see the rejection of claims 17, 1, 6 and 9, respectively.

Referring to claim 102, Graves discloses providing an option for creating a preference profile with which the selected programming theme and the respective level of interest are associated (**see Figure 5 and Column 6, Lines 5-16 for a user interface used to create a preferred viewing file 30a in Figure 2**).

Referring to claims 104-109 and 111-112, see the rejection of claims 67-72 and 74-75.

Claims 8, 14, 17, 37, 44, 52, 58, 61, 73, 85, 91, 94, 99, 103, 110 and 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graves et al. (U.S. Patent No. 5,410,344) in view of Roth (U.S. Patent No. 6,583,797)

Referring to claim 8, Graves and Roth disclose all the limitations of claim 6, as well as a server located at a television distribution facility on which at least a portion of the interactive television program guide is implemented (**see Figure 2 for the content coding server and headend**), but fail to teach that the interactive television program guide maintains the database on the server.

The Examiner takes Official Notice to the fact that a television system is capable of recording viewer selections from a program guide and transmitting the selected information to the headend to be processed and used to configure the program guide.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the headend, as taught by Graves and Roth, using the

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viewer selection processing functionality at the headend, as taught by the Examiner's Official Notice, for the purpose of requiring less processing functionality at the viewer's client device thereby requiring a cheaper television client device.

Referring to claim 14, Graves and Roth disclose all of the limitations of claim 1, but fail to teach displaying the selected programming theme in a predetermined color.

The Examiner takes Official Notice to the fact that a television system can display a selected programming theme in a predetermined color.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the display screen, as taught by Graves and Roth, to include color coding, as taught by the Examiner's Official Notice, for the purpose of clearly distinguishing programs by theme on the EPG, thereby providing a user friendly program guide that allows a user's to quickly make program selections.

Referring to claim 17, see the rejection of claim 8.

Referring to claim 37, see the rejection of claim 14.

Referring to claim 44, Graves and Roth disclose all of the limitations of claim 1, but fail to teach multiple profiles, where the system provides an option of selecting which of the profiles to make active.

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The Examiner takes Official Notice to the fact that television receivers store multiple profiles and that based on which user (Mom, Dad, Kids) are using the television receiver, the profile for that user is activated based on a user selectable option.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television program guide system, as taught by Graves and Roth, using the multiple profiling system, as taught by the Examiner's Official Notice, for the purpose of allowing different users to receive preferred television programming.

Referring to claim 52, see the rejection of claim 8.

Referring to claim 58, see the rejection of claim 14.

Referring to claim 61, see the rejection of claim 17.

Referring to claim 73, see the rejection of claim 8.

Referring to claims 85, 91 and 94, see the rejection of claim s8, 14 and 17, respectively.

Referring to claim 99, see the rejection of claim 14.

Referring to claim 103, see the rejection of claim 44.

Referring to claims 110 and 113, see the rejection of claim 73.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/
Primary Examiner, Art Unit 2421

Jason P Salce
Primary Examiner
Art Unit 2421

May 12, 2009